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7 CFR Ch. XLII (1–1–11 Edition)

(iv) A statement discussing the need for more funding, accompanied by account documentation showing the amounts in each of the RMRF and LLRF accounts established to date; and

(v) A pattern of compliance with program reporting requirements.

(3) Shortened applications under this section will be rated on a pass or fail basis. Passing applications will be assigned a score of 90 points and will be ranked accordingly in the quarterly competitions. Failing applications will be scored 0.

§ 4280.317 Selection of applications for funding.

All applications received will be scored using the scoring criteria specified in § 4280.316. Because each set of applicants is scored on a 100 point scale, applications will be ranked together. Shortened applications can only receive 90 points. Within funding limitations, applications will be funded in descending order, from the highest ranking application down. If two or more applications score the same, the Administrator may prioritize such applications to help the program achieve overall geographic diversity.

(a) *Timing and submission of applications.*

(1) All applications must be submitted as a complete application, in one package. Packages must be bound in a three ring binder and evidence must be organized in the order of appearance in § 4280.315 of this document. Applications that are unbound, disorganized, or otherwise not ready for evaluation will be returned.

(2) Applications will be accepted on a quarterly basis using Federal fiscal quarters. Deadlines and specific application instructions will be published annually in the FEDERAL REGISTER.

(3) Applications received will be reviewed, scored, and ranked quarterly. Unless withdrawn by the applicant, the Agency will retain unsuccessful applications that score 70 points or more, for consideration in subsequent reviews, through a total of four quarterly reviews. Applications unsuccessful after 4 quarters will be returned.

(b) *Availability of funds.* If an application is received, scored, and ranked,

but insufficient funds remain to fully fund it, the Agency may elect to fund an application requesting a smaller amount that has a lower score. Before this occurs, the Agency, as applicable, will provide the higher scoring applicant the opportunity to reduce the amount of its request to the amount of funds available. If the applicant agrees to lower its request, it must certify that the purposes of the project can be met, and the Agency must determine that the project is financially feasible at the lower amount.

(c) *Applicant notification.* The Agency will notify applicants regarding their selection or non-selection, provide appeal rights of unsuccessful applicants, and closing procedures for the loans and/or grants to awardees.

(d) *Closing.* Awardees unable to complete closing for obligation within 90 days will forfeit their funding. Such funding will revert back to the Agency for later use.

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§ 4280.320 Grant administration.

(a) *Oversight.* Any MDO receiving a grant under this program is subject to Agency oversight, with site visits and inspection of records occurring at the discretion of the Agency. In addition, MDOs receiving a grant under this subpart must submit reports, as specified in paragraphs (a)(1) through (3) of this section.

(1) On a quarterly basis, within 30 days after the end of each Federal fiscal quarter, the microlender will provide to the Agency an Agency-approved quarterly report containing such information as the Agency may require to ensure that funds provided are being used for the purposes for which the grant was made, including:

(i) SF-PPR, “Performance Progress Report,” including narrative reporting information as required by Office of Management and Budget (OMB) circulars and successor regulations. This report will include information on the microlender’s technical assistance, training, and/or enhancement activity, and grant expenses, milestones met, or unmet, explanation of difficulties, observations and other such information;

(ii) As appropriate, SF-270; and

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(iii) If requesting grant funding at the time of reporting, SF-PPR-E, “Activity Based Expenditures.”

(2) If a microlender has more than one grant from the Agency, a separate report must be made for each.

(3) Other reports may be required by the Agency from time to time in the event of poor performance or other such occurrences that require more than the usual set of reporting information.

(b) *Payments.* The Agency will make grant payments not more often than on a quarterly basis. The first payment may be made in advance and will equal no more than one fourth of the grant award. Payment requests must be submitted on Standard Form 270 and will only be paid if reports are up to date and approved.

§ 4280.321 Grant and loan servicing.

In addition to the ongoing oversight of the participating MDOs:

(a) *Grants.* Grants will be serviced in accordance with all applicable regulations:

(1) Department of Agriculture regulations including, but not limited to 7 CFR part 1951, subparts E and O, parts 3015, 3016, 3017, 3018, 3019, and 3052; and

(2) Office of Management and Budget (OMB) regulations including, but not limited to, 2 CFR parts 215, 220, 230, and OMB Circulars A-110 and A-133.

(b) *Loans.* Loans to microlenders will be serviced in accordance with the following:

(1) Department of Agriculture regulations 7 CFR part 1951, subparts E, O, and R;

(2) Other Department of Agriculture regulations as may be applicable; and

(3) OMB Circular A-129.

§ 4280.322 Loans from the microlenders to microentrepreneurs.

The primary purpose of making a loan to a microlender is to enable that microlender to make microloans. It is the responsibility of each microborrower to repay the microlender in accordance with the terms and conditions agreed to with the microlender. It is the responsibility of each microlender to make microloans in such a fashion that the terms and conditions of the microloan will support microborrower

success while enabling the microlender to repay the Federal Government.

(a) *Maximum microloan amount.* The maximum amount of a microloan made under this program will be \$50,000.

(b) *Microloan terms and conditions.* The terms and conditions for microloans made by microlenders will be negotiated between the prospective microborrower and the microlender, with the following limitations:

(1) No microloan may have a term of more than 10 years;

(2) The interest rate charged to the microborrower will be established at, or before the closing of the microloan; and

(3) The microlender may establish its margin of earnings but may not adjust the margin so as to violate Fair Credit Lending laws. Margins must be reasonable so as to ensure that microloans are affordable to the microborrowers.

(c) *Microloan insurance requirements.* The requirement of reasonable hazard, key person, and other insurance will be at the discretion of the microlender.

(d) *Credit elsewhere test.* Microborrowers will be subject to a “credit elsewhere” test so that the microlender will make loans only to those borrowers that cannot obtain business funding of \$50,000 or less at affordable rates and on acceptable terms. Each microborrower file must contain evidence that the microborrower has sought credit elsewhere or that the rates and terms available within the community at the time were outside the range of the microborrower’s affordability. Evidence may include a comparison of rates, loan limitations, terms, etc. for other funding sources to those forth offered by the microlender). Denial letters from other lenders are not required.

(e) *Fair credit requirements.* To ensure fairness, microlenders must publicize their rates and terms on a regular basis. Microlenders are also subject to Fair Credit lending laws as discussed in § 4280.305.

(f) *Eligible microloan purposes.* Agency loan funds may be used to make microloans as defined in § 4280.302 for any legal business purpose not identified in § 4280.323 as an ineligible purpose. Microlenders may make